

**Minutes of Meeting
BOARD FOR CONTRACTORS
INFORMAL FACT-FINDING CONFERENCES
March 24, 2005**

The Board for Contractors convened in Richmond, Virginia, for the purpose of holding Informal Fact-Finding Conferences pursuant to the Administrative Process Act.

Ruth Ann Wall, presiding officer, presided. No Board members were present.

Jennifer Kazzie appeared for the Department of Professional and Occupational Regulation.

The conferences were recorded by Inge Snead & Associates, LTD. and the Summaries or Consent Orders are attached unless no decision was made.

Disc = Disciplinary Case
Lic = Licensing Application
RF = Recovery Fund Claim
Trades = Tradesmen Application

C = Complainant/Claimant
A = Applicant
R = Respondent/Regulant
W = Witness
Atty = Attorney

Participants

1. Lan Trac Construction Inc.
File Number 2003-02946 (Disc)

Makka Zahir – R
Rabb Sabbakhan – W
Lee Arzt – R Atty

2. Lan Trac Construction Inc.
File Number 2004-00607 (Disc)

Makka Zahir – R
Rabb Sabbakhan – W
Lee Arzt – R Atty

3. Guy D. Brand Jr.
t/a Brand's Home Improvement
File Number 2004-04233 (Disc)
No Decision Made

Annie Harrington – C

4. Lawrence D. Welch
t/a Window Pro
File Number 2004-04777 (Disc)
No Decision Made

Lynn McBride – C

5. Ronald E. Reeves
t/a Alfa Omega Services
File Number 2004-04454 (Disc)
No Decision Made

Reeves – R

6. Patricia J. Swetnam
t/a My Dad's Fencing
File Number 2005-00554 (Disc)
No Decision Made

John Grimaldi – C

7. Charles G. Shermer
t/a CGS Construction
File Number 2005-01394 (Disc)
No Decision Made

Shermer – R

8. Capitol Asphalt Paving Inc.
File Number 2004-04787 (Disc)
No Decision Made

None

9. Capitol Asphalt Paving Inc.
File Number 2004-05148 (Disc)
No Decision Made

Dorothy Wine – C
Thomas Wine – C

DRAFT

The meeting adjourned at 2:40 p.m.

BOARD FOR CONTRACTORS

Mark D. Kinser, Chairman

Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of Records

DRAFT

**IN THE
COMMONWEALTH OF VIRGINIA
BOARD FOR CONTRACTORS**

Re: Lan Trac Construction Inc, t/a Lan Trac Construction Inc
Richmond, VA 23222

File Number 2003-02946
License Number 2701038208

CONSENT ORDER

Respondent Lan Trac Construction Inc, t/a Lan Trac Construction Inc ("Lan Trac Construction Inc") recognizes and acknowledges being subject to and bound by the Regulations of the Board for Contractors ("Board"), as well as by all other applicable Virginia laws.

Board's 2001 Regulations provides:

18 VAC 50-22-200. Revocation or suspension; fines.

The board may require remedial education, revoke or suspend a license or fine a licensee when a licensee has been found to have violated or cooperated with others in violating any provision of Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia, or any regulation of the board.

Pursuant to the Administrative Process Act §§2.2-4019 and 2.2-4021 of the 1950 Code of Virginia, as amended:

On September 3, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Lan Trac Construction Inc. ("Lan Trac") to the address of record. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was signed for and received.

On October 26, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the October 26, 2004, IFF: Makka Zahir, Responsible Management for Lan Trac; Rabb Sabbakhan, Witness; Jennifer Kazzie, Staff

Member; Ann Rackas Pate, Observing Board Member; and Dorothy Wood, Presiding Board Member.

On February 8, 2005, a letter was mailed, via certified mail, to Lan Trac Construction Inc at the address of record and to Lee Arzt, Esquire, indicating that the IFF will be reconvened. The certified mailings were signed for and received.

On March 23, 2005, the IFF reconvened at the Department of Professional and Occupational Regulation in Richmond, Virginia.

The following individuals participated at the March 23, 2005, reconvened IFF: Lee Arzt, Attorney for Lan Trac Construction Inc; Rabb Sabbakhan, Witness; Jennifer Kazzie, Staff Member; and Ruth Ann Wall, Presiding Officer. Makka Zahir appeared following the IFF while discussions regarding the consent order were being conducted.

The Amended Report of Findings, which contains the facts regarding the regulatory and/or statutory issues in this matter, is incorporated with the Consent Order.

The Board and Lan Trac Construction Inc, as evidenced by the signatures affixed below, enter into this Consent Order. Lan Trac Construction Inc knowingly and voluntarily waives any further proceedings in this matter under Administrative Process Act §§2.2-4020 and 2.2-4021 of the 1950 Code of Virginia, as amended.

By signing this Consent Order, Lan Trac Construction Inc acknowledges an understanding of the charges and hereby admits to the violation(s) of the Counts as outlined in the Amended Report of Findings. Lan Trac Construction Inc consents to the following term(s):

	Count 1:	18 VAC 50-22-260.B.9.	\$250.00
	Count 2:	18 VAC 50-22-260.B.31.	\$250.00

	TOTAL:		\$500.00

In addition, a Member of Responsible Management of Lan Trac Construction Inc agrees to successfully complete the Board's Basic Contractor Licensing class (remedial education) within six months of the entry of the Order for the violations of Counts 1 and 2.

Lan Trac Construction Inc also agrees to pay \$300.00 in investigative costs for violation of Counts 1 and 2.

Any monetary penalties, costs, and/or sanctions are to be paid/performed within thirty days of the effective date of this consent order unless otherwise specifically noted above. Lan Trac Construction Inc acknowledges any monetary penalty and costs as a debt to the Commonwealth and agrees that in the event of a default, or the return of a check for insufficient funds, Lan Trac Construction Inc will be responsible for a penalty fee of 10% and interest at the underpayment rate prescribed in Section 58.1-15 of the 1950 Code of Virginia,

as amended, and for all reasonable administrative costs, collection fees, or attorney's fees incurred in the collection of whatever funds are due.

Lan Trac Construction Inc acknowledges that failure to pay any monetary penalty or cost and/or to comply with all terms of this Order within the specified time period, shall result in the automatic suspension of Lan Trac Construction Inc's license until such time as there is compliance with all terms of this Order. Lan Trac Construction Inc understands the right to have this automatic suspension considered in an IFF pursuant to the Administrative Process Act §§2.2-4019 and 2.2-4021 of the 1950 Code of Virginia, as amended, but knowingly and voluntarily waives any rights to the proceeding and hereby waives any further proceedings under the Administrative Process Act §§2.2-4020 and 2.2-4021 of the 1950 Code of Virginia, as amended.

The effective date of this Order shall be the date of execution by the Board.

SEEN AND AGREED TO:

Lan Trac Construction Inc
t/a Lan Trac Construction Inc

Date

Printed Name and Title of Person Signing on behalf of Entity

CITY/COUNTY OF
COMMONWEALTH OF VIRGINIA

Sworn and subscribed before me this _____ day of _____, 2005.

Notary Public

My Commission Expires: _____

SO ORDERED:

Entered this _____ day of _____, 2005.

Board for Contractors

BY: _____
Louise Fontaine Ware, Secretary

EOO

VIRGINIA DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL REGULATION
COMPLIANCE & INVESTIGATIONS DIVISION
3600 WEST BROAD STREET
RICHMOND, VIRGINIA 23230-4917

AMENDED
REPORT OF FINDINGS

BOARD: Board for Contractors
DATE: May 5, 2004 (revised July 28, 2004, amended March 24, 2005)

FILE NUMBER: 2003-02946
RESPONDENT: Lan Trac Construction Inc.
LICENSE NUMBER: 2701038208
EXPIRATION: December 31, 2004

SUBMITTED BY: Renee H. Popielarz
APPROVED BY: E. Wayne Mozingo

COMMENTS:

A dispute began between the parties regarding insulation that was not in the contract but was required to be installed. The work and payments stopped around the time of this dispute. The parties entered into arbitration through the court. Any issues in the complaint being sent forward to the Board are regarding issues occurring prior to the dispute.

Lan Trac Construction Inc. ("Lan Trac") was at all times material to this matter a licensed Class A Contractor in Virginia (No. 2701038208).

Based on the analysis and/or investigation of this matter, there is probable cause to believe the respondent has committed the following violation(s) of the Code of Virginia and/or Board's regulation(s):

BACKGROUND:

On April 30, 2003, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Ronald Allen ("Allen") regarding Lan Trac. (Exh. C-1)

On October 24, 2002, Allen entered into a written contract with Lan Trac, in the amount of \$57,465.97, to repair fire damage at 2304 Barton Avenue, Richmond, Virginia 23222. (Exh. C-2)

1. Board Regulation (Effective September 1, 2001)

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

9. Failure of those engaged in residential contracting as defined in this chapter to comply with the terms of a written contract which contains the following minimum requirements:
 - d. A "plain-language" exculpatory clause concerning events beyond the control of the contractor and a statement explaining that delays caused by such events do not constitute abandonment and are not included in calculating time frames for payment or performance;
 - e. A statement of assurance that the contractor will comply with all local requirements for building permits, inspections, and zoning;
 - f. Disclosure of the cancellation rights of the parties;
 - h. Contractor's name, address, license number, expiration date, class of license, and classifications or specialty services; and
 - i. Statement providing that any modification to the contract, which changes the cost, materials, work to be performed, or estimated completion date, must be in writing and signed by all parties.

FACTS:

The contract used by Lan Trac in this transaction failed to contain subsections: (d); (e); (f); (h); and; (i). (Exh. C-2)

2. Board Regulation (Effective September 1, 2001)

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

31. Failure to obtain written change orders, which are signed by both the consumer and the licensee or his agent, to an already existing contract.

FACTS:

The contract specified 5/8" sheet rock would be replaced on walls and ceilings. (Exh. C-2)

Lan Trac installed 1/2" sheetrock on the walls and ceilings. (Exh. C-1)

In a written response dated June 18, 2003, Sabbakhan stated he obtained permission to install the ½" sheetrock from Allen's brother. (Exh. R-1)

Lan Trac failed to obtain a written change, signed by all parties, for a modification of the materials.

DRAFT

**IN THE
COMMONWEALTH OF VIRGINIA
BOARD FOR CONTRACTORS**

Re: Lan Trac Construction Inc, t/a Lan Trac Construction Inc
Richmond, VA 23222

File Number 2004-00607
License Number 2701038208

CONSENT ORDER

Respondent Lan Trac Construction Inc, t/a Lan Trac Construction Inc ("Lan Trac Construction Inc") recognizes and acknowledges being subject to and bound by the Regulations of the Board for Contractors ("Board"), as well as by all other applicable Virginia laws.

Board's 2003 Regulations provides:

18 VAC 50-22-200. Remedial education, revocation or suspension; fines.

The board may require remedial education, revoke or suspend a licensee when a licensee has been found to have violated or cooperated with others in violating any provision of Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia, or any regulation of the board.

Pursuant to the Administrative Process Act §§2.2-4019 and 2.2-4021 of the 1950 Code of Virginia, as amended:

On September 3, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Lan Trac Construction Inc. ("Lan Trac") to the address of record. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was signed for and received.

On October 26, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the October 26, 2004, IFF: Makka Zahir, Responsible Management for Lan Trac; Rabb Sabbakhan, Witness; Jennifer Kazzie, Staff

Member; Ann Rackas Pate, Observing Board Member; and Dorothy Wood, Presiding Board Member.

On February 8, 2005, a letter was mailed, via certified mail, to Lan Trac Construction Inc at the address of record and to Lee Arzt, Esquire, indicating that the IFF will be reconvened. The certified mailings were signed for and received.

On March 23, 2005, the IFF reconvened at the Department of Professional and Occupational Regulation in Richmond, Virginia.

The following individuals participated at the March 23, 2005, reconvened IFF: Lee Arzt, Attorney for Lan Trac Construction Inc; Rabb Sabbakhan, Witness; Jennifer Kazzie, Staff Member; and Ruth Ann Wall, Presiding Officer. Makka Zahir appeared following the IFF while discussions regarding the consent order were being conducted.

The Amended Report of Findings, which contains the facts regarding the regulatory and/or statutory issues in this matter, is incorporated with the Consent Order.

The Board and Lan Trac Construction Inc, as evidenced by the signatures affixed below, enter into this Consent Order. Lan Trac Construction Inc knowingly and voluntarily waives any further proceedings in this matter under Administrative Process Act §§2.2-4020 and 2.2-4021 of the 1950 Code of Virginia, as amended.

By signing this Consent Order, Lan Trac Construction Inc acknowledges an understanding of the charges and hereby admits to the violation(s) of the Counts as outlined in the Amended Report of Findings. Lan Trac Construction Inc consents to the following term(s):

	Count 1:	18 VAC 50-22-260.B.9.	\$250.00
	Count 2:	18 VAC 50-22-260.B.31.	\$250.00

	TOTAL:		\$500.00

In addition, a Member of Responsible Management of Lan Trac Construction Inc agrees to successfully complete the Board's Basic Contractor Licensing class (remedial education) within six months of the entry of the Order for the violations of Counts 1 and 2.

Lan Trac Construction Inc also agrees to pay \$300.00 in investigative costs for violation of Counts 1 and 2.

Any monetary penalties, costs, and/or sanctions are to be paid/performed within thirty days of the effective date of this consent order unless otherwise specifically noted above. Lan Trac Construction Inc acknowledges any monetary penalty and costs as a debt to the Commonwealth and agrees that in the event of a default, or the return of a check for insufficient funds, Lan Trac Construction Inc will be responsible for a penalty fee of 10% and interest at the underpayment rate prescribed in Section 58.1-15 of the 1950 Code of Virginia,

as amended, and for all reasonable administrative costs, collection fees, or attorney's fees incurred in the collection of whatever funds are due.

Lan Trac Construction Inc acknowledges that failure to pay any monetary penalty or cost and/or to comply with all terms of this Order within the specified time period, shall result in the automatic suspension of Lan Trac Construction Inc's license until such time as there is compliance with all terms of this Order. Lan Trac Construction Inc understands the right to have this automatic suspension considered in an IFF pursuant to the Administrative Process Act §§2.2-4019 and 2.2-4021 of the 1950 Code of Virginia, as amended, but knowingly and voluntarily waives any rights to the proceeding and hereby waives any further proceedings under the Administrative Process Act §§2.2-4020 and 2.2-4021 of the 1950 Code of Virginia, as amended.

The effective date of this Order shall be the date of execution by the Board.

SEEN AND AGREED TO:

Lan Trac Construction Inc
t/a Lan Trac Construction Inc

Date

Printed Name and Title of Person Signing on behalf of Entity

CITY/COUNTY OF
COMMONWEALTH OF VIRGINIA

Sworn and subscribed before me this _____ day of _____, 2005.

Notary Public

My Commission Expires: _____

SO ORDERED:

Entered this _____ day of _____, 2005.

Board for Contractors

BY: _____
Louise Fontaine Ware, Secretary

EOO

VIRGINIA DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL REGULATION
COMPLIANCE & INVESTIGATIONS DIVISION
3600 WEST BROAD STREET
RICHMOND, VIRGINIA 23230-4917

AMENDED
REPORT OF FINDINGS

BOARD: Board for Contractors
DATE: September 7, 2004 (revised September 28, 2004, and
amended March 24, 2005)

FILE NUMBER: 2004-00607
RESPONDENT: Lan Trac Construction Inc.
LICENSE NUMBER: 2701038208
EXPIRATION: December 31, 2004

SUBMITTED BY: Renee H. Popielarz
APPROVED BY: E. Wayne Mozingo

COMMENTS:

An issue regarding failure to change the RM listed for Lan Trac Construction Inc. was handled in file number 2003-02946.

Lan Trac Construction Inc. ("Lan Trac") was at all times material to this matter a licensed Class A Contractor in Virginia (No. 2701038208).

Based on the analysis and/or investigation of this matter, there is probable cause to believe the respondent has committed the following violations of the Code of Virginia and/or Board's regulations:

BACKGROUND:

On July 28, 2003, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Anne Maiden ("Maiden") regarding Lan Trac. (Exh. C-1)

On June 24, 2003, Maiden entered into a written contract with Lan Trac, in the amount of \$4,945.00, to perform remodeling work at 261 Hanover Road, Sandston, Virginia. (Exh. C-2 and R-2)

On June 25, 2003, Lan Trac commenced work. (Exh. I-1) Between June 26, 2003 and July 14, 2003, Lan Trac performed work at the subject property. (Exh. C-1)

On June 25, 2003, Maiden paid Lan Trac \$1,648.00 by check. (Exh. C-3) On July 1, 2003, Maiden paid Lan Trac \$1,648.00 by check. (Exh. C-4) On July 14, 2003, Maiden paid Lan Trac \$1,868.00 by check. (Exh. C-5)

1. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

9. Failure of those engaged in residential contracting as defined in this chapter to comply with the terms of a written contract which contains the following minimum requirements:
 - a. When work is to begin and the estimated completion date;
 - d. A "plain-language" exculpatory clause concerning events beyond the control of the contractor and a statement explaining that delays caused by such events do not constitute abandonment and are not included in calculating time frames for payment or performance;
 - e. A statement of assurance that the contractor will comply with all local requirements for building permits, inspections, and zoning;
 - f. Disclosure of the cancellation rights of the parties;
 - h. Contractor's name, address, license number, expiration date, class of license, and classifications or specialty services; and
 - i. Statement providing that any modification to the contract, which changes the cost, materials, work to be performed, or estimated completion date, must be in writing and signed by all parties.

FACTS:

The contract used by Lan Trac in this transaction failed to contain subsections: (a), (d), (e), (f), (h), and (i). (Exh. C-2; and R-2)

2. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

31. Failure to obtain written change orders, which are signed by both the consumer and the licensee or his agent, to an already existing contract.

FACTS:

The contract specified "Install new trap door with hinges" in the upstairs bath. (Exh. C-2 and R-2)

Lan Trac installed the trap door in the upstairs bath with screws and no hinges. (Exh. I-1)

During the construction, Maiden agreed to additional roofing because the roofer indicated another area was rotten. Lan Trac agreed to perform the additional roof work at no additional charge to cover the cost of a damaged television. (Exh. I-1)

Lan Trac also told Maiden a new gutter was needed, which Maiden did not have to pay for, but the gutter cost Lan Trac \$120.00. (Exh. I-1)

Lan Trac also moved a receptacle 8" and installed a light fixture in a bathroom. (Exh. I-2) On August 14, 2003, E W Yates obtained electrical permit number ELE2003-03230 to move the range receptacle and replace the fixture at the subject property. (Exh. I-3)

Lan Trac failed to use written change orders, signed by all parties, for modifications to the scope of the work to be performed, materials, and costs of the original contract.